

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

No. 2:06-CR-00001-F
No. 2:12-CV-00003-F

KENDRICK BAHAM,)
Petitioner,)
)
v.)
)
UNITED STATES OF AMERICA,)
Respondent.)

O R D E R

The motion [DE-53] petitioner Kendrick Baham filed to vacate, set aside, or correct the sentence pursuant to 28 U.S.C. § 2255, received on January 19, 2012, does not substantially follow the form appended to the Rules Governing § 2255 Proceedings, and is therefore not in compliance with Rule 2(c) of the Rules Governing § 2255 Proceedings and Local Civil Rule 81.2 of this court. Ordinarily, the court would enter an order directing the petitioner to complete the required form and return it to the Clerk of Court within a specified time.

However, because it appears that Baham challenges his conviction and/or sentence based on the recent decision of **United States v. Simmons**, 649 F.3d 237 (4th Cir. 2011), the Office of the Federal Public Defender is APPOINTED to represent petitioner in connection with these proceedings, pursuant to Standing Order No.11-SO-3 (E.D.N.C. Oct. 18, 2011). The Clerk is DIRECTED to serve the Office of the Federal Public Defender with a copy of this order.

The Federal Public Defender will investigate this case according to the parameters established by that office for review of **Simmons** -related motions, and determine whether it merits filing a corrected § 2255 motion on Baham's behalf. If appropriate, the Federal Public Defender will file a corrected § 2255 motion; if the Federal Public Defender does not deem such a motion to be appropriate, it will file a Motion w Withdraw.

The Clerk of Court is DIRECTED to re-submit this case to chambers immediately upon the Federal Public Defender's filing an amended § 2255 motion or a motion to withdraw. Should the Federal Public Defender be permitted to withdraw, petitioner Baham will be afforded an opportunity to complete the required forms and file a *pro se* corrected § 2255 motion, which will be deemed to have been filed on January 19, 2012.

SO ORDERED.

This, the 20th day of January, 2012.



JAMES C. FOX
Senior United States District Judge